

CAUSE NO. D-1-GN-17-006169SHOMARI KING,
Plaintiff,

v.

GEORGETOWN BEHAVIORAL
HEALTH INSTITUTE, LLC
Defendant.§
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IN THE DISTRICT COURT

NO. 261ST

OF TRAVIS COUNTY, TEXAS

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Shomari King ("King" or "Plaintiff"), files this Original Complaint against Defendant Georgetown Behavioral Health Institute, LLC ("GBHI" or "Defendant"), alleging violations of the Texas Health & Safety Code § 161.134 and would show as follows:

I. PARTIES

1. Plaintiff Shomari King is an individual currently residing in Fort Hood, Texas.
2. Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure.
3. Plaintiff seeks monetary relief between \$100,000 and \$200,000.
4. Defendant Georgetown Behavioral Health Institute, LLC is an active domestic for-profit corporation which is authorized to do business in Texas and is doing business in Texas. Process may be served by serving Defendant's registered agent, Joe Rodriguez, at 3101 S Austin Ave, Georgetown, TX 78626.

II. JURISDICTION

5. This Court has subject matter jurisdiction because Plaintiff's damages are in excess of the minimal jurisdictional limits of the Court and within the maximum jurisdictional limits of the Court.

III. VENUE

6. Venue is proper in the Travis County District Court pursuant to Texas Health & Safety Code § 161.134(g) because Travis is a county in which Defendant conducts business.

IV. FACTUAL ALLEGATIONS

7. King began working for GBHI in January of 2017.
8. King was dedicated to the comfort and service of patients at GBHI.
9. King worked in patient care as a mental health technician.
10. King exhibited good job performance during his time as an employee at GBHI.
11. King received praise for his job performance during his time as an employee at GBHI.
12. King was never disciplined for poor performance during his time as an employee at GBHI.
13. Chief Nursing Officer Kelli Wright RN, MBA was King's supervisor.
14. On or around late March or early April 2017, King filed an official report in good faith, addressed to GBHI management staff, alerting them to misconduct by GBHI permanent and temporary staff against patients.
15. King was later informed by GBHI nursing staff that the report had been lost.
16. GBHI failed to follow up or take remedial action to address the patient care and misconduct problems raised by this report.
17. On or around the middle of April 2017, King became aware that a supervisor named Naomi was mistreating GBHI patients and staff, and made harassing comments about King to patients and staff.
18. Bob, a GBHI Lead Technician, reports Naomi's misconduct to Kelli Wright.
19. GBHI failed to follow up or take remedial action to address the patient care and misconduct problems raised by this report.

20. On or around April 17, 2017, King sends an email to Wright reporting Naomi's behavior and other misconduct.
21. Wright tells King that the matter will be handled confidentially.
22. GBHI failed to follow up or take remedial action to address the patient care and misconduct problems raised by this report.
23. On or around May 10, 2017, Wright directs King and others to perform a full search of all adolescent patients' rooms and possessions.
24. King tells Wright that such a search will constitute a violation of state laws and health regulations, and for that reason he does not wish to conduct such a search.
25. Wright orders King to perform the search despite his concerns.
26. Approximately two days later, Wright pulls King away from his job duties and sends him home early.
27. Wright tells King that the reason was that GBHI was overstaffed at the time.
28. However, GBHI was consistently understaffed at the time, and emails were frequently sent to staff requesting that employees take extra shifts to cover unfilled vacancies.
29. At this time, GBHI was using temporary staff to cover job duties.
30. GBHI policy and practice is that GBHI will send temporary staff home first in the event the facility is overstaffed.
31. After his conversation with Wright, King raises his reports to GBHI CEO Joe Rodriguez.
32. King reports to Rodriguez that Naomi is abusing staff and patients and harassing King. King also reports that Wright sent him home in retaliation for making reports to her.
33. By this time, Plaintiff had made multiple reports of abuse or neglect of patients or illegal, unprofessional, or unethical conduct.

34. During this meeting, King and Rodriguez agree that King will return to work on Monday, May 15, 2017.

35. Later that day, King's coworkers, but not King, receive an email containing next week's schedule. King later discovers he is not scheduled to work that Monday, as agreed with Rodriguez, but is instead scheduled off the whole week, returning Monday, May 22, 2017.

36. On Monday, May 15, 2017, King attempts to call Rodriguez.

37. Rodriguez's administrative assistant informs King that Rodriguez is unavailable. King asks for the GBHI corporate office phone number, and Rodriguez's assistant gives him the wrong number.

38. Later that afternoon, Monday, May 15, 2017, King receives an email from Kelli Wright informing him: "I have made the decision to accept your resignation effective immediately."

39. Without prior warning, GBHI fired Plaintiff for his reporting.

**V. CAUSE OF ACTION: RETALIATION IN VIOLATION OF THE TEXAS
HEALTH & SAFETY CODE**

40. Plaintiff adopts and incorporates herein by reference all preceding paragraphs.

41. Defendant is a hospital, mental health facility, or treatment facility as defined by Texas Health & Safety Code § 161.131 and Texas Mental Health Code § 571.003.

42. Defendant suspended or terminated the employment of or disciplined or otherwise discriminated against Plaintiff for reporting in good faith to Plaintiff's supervisor, an administrator of Defendant, a state regulatory agency, or a law enforcement agency a violation of law, including a violation of this chapter, a rule adopted under this chapter, or a rule of another agency.

43. Defendant terminated Plaintiff's employment on or before the 60th day after the date on which Plaintiff made a good faith report.

44. Defendant's conduct violated Texas Health & Safety Code § 161.134.

45. This lawsuit is filed before the 180th day after the date the alleged violation occurred or was discovered by the Plaintiff through the use of reasonable diligence.

VI. DAMAGES

46. As a result of Defendant's unlawful conduct, Plaintiff has suffered economic and actual damages, including past and future lost income, back wages, interest on back pay and front pay, future wages or front pay, lost earnings in the past and future, lost benefits under the contract or employment relationship, employment benefits in the past, and employment benefits in the future. Plaintiff has also incurred other actual damages as a result of Defendant's unlawful conduct, including but not limited to past and future pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of earning capacity, loss of enjoyment of life, injury to professional standing, injury to character and reputation, and other pecuniary and non-pecuniary losses.

VII. COMPENSATORY DAMAGES

47. Plaintiff additionally brings suit for compensatory damages, including emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character and reputation, injury to credit standing, job search expenses, lost earning capacity in the past and future, and other pecuniary and non-pecuniary losses.

VIII. PUNITIVE DAMAGES

48. The conduct committed by Defendant against Plaintiff is the type of conduct demonstrating malice or reckless indifference to the rights of the Plaintiff. Therefore, Plaintiff additionally brings suit for punitive damages.

IX. ATTORNEY'S FEES AND EXPERT FEES

49. Plaintiff seeks all reasonable and necessary attorneys' fees in this case, including preparation and trial of this lawsuit, post-trial, pre-appeal legal services, and any appeals. Plaintiff additionally brings suit for expert fees.

X. DEMAND FOR JURY TRIAL

50. Plaintiff demands a trial by jury of all the issues in this case and tenders herewith the requisite jury fee.

XI. REQUEST FOR DISCLOSURE

51. Pursuant to Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

XII. PRAYER FOR RELIEF

52. WHEREFORE, cause having been shown, Plaintiff prays for, on trial of this just cause, judgment against Defendant as follows:

- a. All actual damages, including but not limited to past and future lost wages, past and future lost benefits, lost benefits of contract, consequential damages, reinstatement of lost fringe benefits or seniority rights;
- b. Mental anguish / compensatory damages;
- c. Exemplary / punitive damages;
- d. Pre-judgment and post-judgment interest as allowed by law;
- e. Court costs and expenses, and litigation expenses, including but not limited to the expenses for any expert witnesses;
- f. Equitable relief, including reinstatement, front pay;
- g. Attorneys' fees; and

- h. Any such further relief as the Court deems proper and just under the circumstances.

Respectfully Submitted,

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CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): _____ COURT (FOR CLERK USE ONLY): _____

STYLED Shomari King v. Georgetown Behavioral Health Institute, LLC

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:
Name: Austin Kaplan	Email: akaplan@kaplanlawatx.com	Plaintiff(s)/Petitioner(s): Shomari King		<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____
Address: 2525 Wallingwood Dr., Bldg14	Telephone: 512-553-9390	Defendant(s)/Respondent(s): Georgetown Behavioral Health Institute, LLC		Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____
City/State/Zip: Austin, Texas 78746	Fax: 512-692-2788	State Bar No: 24072176		
Signature: 		[Attach additional page as necessary to include all parties]		

2. Indicate case type, or identify the most important issue in the case (select only 1):				
Civil		Family Law		
Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
Employment <input type="checkbox"/> Discrimination <input checked="" type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	Other Civil <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Consumer Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property </div> <div style="width: 45%;"> <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____ </div> </div>			
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	Probate & Mental Health <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings </div> <div style="width: 45%;"> <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____ </div> </div>			

3. Indicate procedure or remedy, if applicable (may select more than 1):		
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover

4. Indicate damages sought (do not select if it is a family law case):
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input checked="" type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000